

Hobbled EPA Aims at the Biggest Federal Polluters

By Earl Lane
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Although the Environmental Protection Agency reported last month that it had filed a record number of enforcement actions against polluters during the past year, critics say the agency remains handicapped in its battle against one of the most prolific of the bunch: Uncle Sam.

The bill for cleaning up pollution at federal facilities could top \$330 billion. The major contributors to the mess are the Department of Energy and the Pentagon, but more than a dozen other federal agencies also are involved.

The EPA has begun to target some of these other agencies — notably the National Aeronautics and Space Administration and the Department of Agriculture — for special attention, according to Gordon Davidson, acting head of the EPA office that monitors federal facilities.

'Sovereign Immunity'

But the enforcement effort against federal polluters remains hampered by lack of data, insufficient resources and the continued insistence by federal agencies that "sovereign immunity" protects them from unilateral EPA orders or fines imposed by the states under the major hazardous-waste laws.

"People are starting to take this more seriously," said Davidson. "But we've still got a long way to go. In trying to change the federal government, you really need to keep a chronic and constant level of pressure."

NASA Cleanup

To that end, Davidson said, EPA recently negotiated a cleanup plan for NASA's White Sands mis-

sile test center, — where waste solvents threaten an underground water aquifer — and is preparing for a closer look at NASA's Jet Propulsion Laboratory, where hazardous wastes may threaten some water wells serving Pasadena. EPA also recently undertook a comprehensive inspection of NASA's Langley Research Center in Hampton, Va.

Davidson said the agency also has negotiated a cleanup agreement with the Agriculture Department's major research lab in Beltsville, Md. It is working with agriculture officials to determine the risks at about 2,000 grain silos formerly owned by the department. In Nebraska, one of the fumigant-contaminated silos already has been put on the priority list for Superfund cleanup.

Despite such inspections and negotiated settlements, critics say the EPA and state agencies still lack the clout to fully enforce hazardous waste laws against federal facilities.

Under a 1986 Department of Justice ruling, the EPA is unable to unilaterally order federal agencies to comply with the Resource Conservation and Recovery Act — the nation's major hazardous waste law. And federal agencies continue to assert that they are exempt from state or federal fines under the law.

"It is clearly an issue that will remain a central concern for the states," said Tom Curtis, a staff aide for the National Governors Association. The association backs a bill sponsored by Representative Dennis Eckart, D-Ohio, that would prohibit federal agencies from claiming immunity from hazardous waste penalties. The bill passed the House this year, but a companion bill died in the Senate.

Setting Priorities

The administration wants any change in penalty authority linked

to a new system for choosing the sites most in need of cleanup.

"We believe it makes some sense to attempt to set priorities so that the worst risks are the ones you address first," said Robert Grady, an associate director of the White House's Office of Management and Budget.

Beyond the battle over penalty authority, the EPA is also trying to improve its methods for monitoring federal sites.

One EPA analysis found federal agency compliance with the recovery act is only 40 percent, compared with 52 percent for private industry.

The federal government already has 116 facilities on the Superfund priority list for cleanup. But most agencies have yet to complete detailed studies of their problem sites.

Department of Energy officials say it could take a decade to fully characterize the contamination at such locations as the Hanford nuclear reservation in Washington state.

Weapons Cleanup

The General Accounting Office, the investigative arm of Congress, has estimated that the cost of cleaning up the weapons complex could exceed \$100 billion over 30 years. Add in the tab for modernizing the facilities and costs could be \$155 billion, the agency estimates.

The Department of Energy's most recent projection of cleanup costs for the next five years is \$28.6 billion, nearly 50 percent higher than an estimate of \$19.5 billion made just six months earlier.

The Department of Defense expects to spend at least \$20 billion over the next two decades on its cleanup of contaminated bases
see next page